IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

CIVIL SECOND APPEAL No. 368 of 2006

BADRI SINGH
V/S
KANHAIYA LAL

Mr. RAVI BHANSALI, for the appellant / petitioner

Mr. MS PANWAR for Mr. SAJJAN SINGH (CAVEATOR), for the respondent

Date of Order : 19.10.2006

HON'BLE SHRI N P GUPTA,J.

ORDER

Heard learned counsel for the appellant, and perused the impugned judgments.

Both the learned courts below have found as a fact that the plaintiff requires the suit shop for establishing his sons' and grand sons' business, and have also found that the appellant has already been alloted a plot in the Transport Nagar. Thus the aspect of comparative hardship is also decided against the appellant. In my view, the findings are not vitiated on any of the grounds available under Section 100 C.P.C. The appeal thus does not involve any substantial question of law. The same is, therefore, dismissed.

However, at the request of the learned counsel

for the appellant, the appellant is given one and half year's time to vacate the suit premises on the condition that the defendant gives an undertaking before the learned trial court within one month from today that on or before the expiry of the above period, he will peacefully hand over the vacant possession of the suit premises to the plaintiff and that during this period, he will not, in any manner, transfer the possession of the suit premises to anybody. Likewise, the entire decretal amount, so also all arrears of rent, if any, shall be deposited by the appellant in the trial court within one month from today and shall further continue to deposit amount equal to the monthly rent by way of damages for use and occupation by 15th of each succeeding month, till the actual delivery of possession. In case the appellant fails to comply with any of the above conditions, the respondent will become automatically entitled to execute the decree forthwith.

(N P GUPTA),J.

/Sushil/